IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 22ND AUGUST 2007 / 31ST SRAVANA 1929

Bail Appl..No. 5018 of 2007()

CRIME NO.105/2006 OF THE MANJESHWAR POLICE STATION

: PETITIONER/ACCUSED

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1. JAMEELA, W/O.HEEYAKA HAJI, DUEAMS HOUSE, ANCHIKATTA, MANJESHWAR, MANJESHWAR.

2. FATHIMA, W/O.ASHARAF, DUEAMS HOUSE, ANCHIKATTA, MANJESHWAR, MANJESHWAR.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY SHO MANJESHWAR POLICE STATION, REP. BY PUBLIC PROSECUTOR, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/08/2007, THE COURT ON 22/08/2007 PASSED THE FOLLOWING:

R.BASANT, J

B.A.No. 5018 of 2007

Dated this the 22nd day of August, 2007

ORDER

Application for anticipatory bail. The petitioners are accused Nos.1 and 2 in a crime registered under Section 365 r/w 34 I.P.C. Altogether there are 4 accused persons. The crime has been registered on the basis of the F.I statement lodged by the brother in law of the maidservant of the petitioners. The maidservant was employed in the house of the petitioners. There are certain other cases. It is unnecessary to advert to them in detail in this order. The brother in law of the said maidservant - she is aged about 17 years, it is stated, had allegedly come to the house of the petitioners and had wanted the petitioners to send the maidservant along with him. It is alleged that the petitioners did not permit the maidservant to go along with her brother in law. By then, there were certain other cases. The petitioners are alleged to have stated that the maidservant could leave only after those cases were dealt with. Thereafter the petitioners along with two co-accused are alleged to have taken the maidservant in their car first to a lawyer's office and thereafter to the police. The brother in law lodged a complaint that his sister in law, the maidservant is being illegally detained and kidnapped by the

petitioners. The crime has been registered. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that even going by the admitted case of the prosecution and the defacto complainant-the girl who was allegedly kidnapped that the maidservant was left in the hands of the petitioners. There was absolutely no intention even going by the case of the prosecution to illegally move the said maidservant to any place. Even going by the statement of the said maidservant in the case diary the only allegation is that she was not allowed to go with the brother in law and that she was taken to the advocate's office and later to the police. I find merit in the submission of the learned counsel for the petitioners that in these circumstances the petitioners do not deserve to endure the trauma of arrest and detention.

3. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that in not permitting the maidservant to proceed along with her brother in law and in having compelled her to move to the advocate's office and the police in the car forcibly, the petitioners have committed the offence punishable under Section 365 I.P.C.

4. I have considered all the relevant inputs. Notwithstanding

the opposition of the learned Public Prosecutor, I am satisfied that anticipatory bail can be granted to the petitioners.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioners shall appear before the learned Magistrate at 11 a.m on 30.08.2007. They shall be enlarged on regular bail on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on 31.08.2007 and 01.09.07 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of two months. Subsequently the petitioners shall make themselves available for interrogation before the Investigating as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if those directions were not issued at all;

iv) If the petitioners were arrested prior to their surrender on 30.08.07 as directed in clause (1) above, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 30.08.07.

(R.BASANT, JUDGE)

rtr/-